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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,603	11/16/2001	Howard A. Hardee	29002-11270	4747

33042 7590 04/05/2006

LEYDIG, VOIT & MAYER, LTD.  
(SEATTLE OFFICE)  
TWO PRUDENTIAL PLAZA  
SUITE 4900  
CHICAGO, IL 60601-6780

EXAMINER
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HAWK, NOAH CHANDLER

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/998,603		HARDEE ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Noah C. Hawk		3637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 51-64,66-72 and 74-76 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 51-64,66-72 and 74-76 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

### **DETAILED ACTION**

1. **The Finality of the last Office Action is withdrawn. The indicated allowability of claims 51-54, 65, 66, 73, and 74 is withdrawn in view of the newly discovered reference(s) to Rinker in US Patent 5411425. The amendment after final filed on 3/8/06 has been entered. Rejections based on the amended claims and in view of the newly cited reference(s) follow.**

#### ***Affidavits – 37 CFR 1.131***

2. The affidavit of Timothy Holub filed on 11/7/05 under 37 CFR 1.131 is acknowledged and has been considered by the examiner. However, the Office reminds the applicant that the declaration is improperly listed in the IDS. A declaration filed under 37 CFR 1.131 should not be listed on an IDS.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 51-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holub in view of Dehner and Rinker in US Patent 5411425.

a. Regarding Claims 51 and 52, Holub discloses a method of constructing a corner in a tent comprising attaching two portions of a first sheet of fabric material so as to form a three-dimensional corner, the attachment of the two portions forming a seam, and turning the three-dimensional corner inside out to form an inverted, three dimensional corner, but does not disclose a second sheet of material or the construction of a tab. Dehner teaches the use of a second sheet of fabric material (66) for covering the interior portion of a seam (48, see Figure 2) to prevent unwanted water penetration therethrough and increase the strength of the seam, but does not teach a tab. Rinker teaches a tab (30) formed on a three-dimensional corner, the tab being formed by pinching the apex of the three-dimensional corner together and connecting the pinched apex to form the tab (see Rinker, Column 3, lines 26-29). Rinker further teaches the attachment of a loop (38) to the tab. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of Holub by attaching a second piece of material on the interior of the corner as taught by Dehner in order to further prevent water penetration through the corner and to increase the strength of the corner and by forming a tab on the apex of the corner and attaching a loop to the tab as taught by Rinker in order to provide a means for the user to attach a fixing devices to the corner.

b. Regarding Claim 53 and 54, as stated above, Holub in view of Dehner and Rinker teaches all of the limitations of Claim 51. Holub further teaches that the corner is that of a tent having a tub floor. Holub is silent on whether the tent with

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tub floors has every corner made in this way, but it would have been obvious to one of ordinary skill in the art at the time of invention to use the corner construction method on every corner in order to provide a tent with a tub floor having the most water protection possible.

5. Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holub declaration of 11/7/05 in view of Krishnan, Kubacki in US Patent 4519410 and Rinker. The Holub document teaches the construction of a corner for a floor tub, comprising attaching two portions of a first sheet of fabric material so as to form a three-dimensional corner, the attachment of the two portions forming a seam and turning the three dimensional corner inside out to form an inverted three-dimensional corner but does not disclose a two-layer fabric material, the attachment of walls of a tent or canopy, or the addition of a tab to the corner. Krishnan teaches using a two-layer fabric material (see Krishnan, Column 16, line 46 "comprising a pair of fabric layers") to form a waterproof material but does not disclose the attachment of tent or canopy walls to the floor tub or the addition of a tab to the corner. Kubacki teaches the attachment of tent walls (22, 23) to a substantially waterproof tub floor (17) but fails to disclose the addition of a tab to the corner. Rinker teaches a tab (30) formed on a three-dimensional corner, the tab being formed by pinching the apex of the three-dimensional corner together and connecting the pinched apex to form the tab (see Rinker, Column 3, lines 26-29). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of Holub by using a two-layer fabric material as taught by Krishnan in order to produce a waterproof corner and to configure the fabric material so that a

second layer extends over an exterior portion of the inverted, three-dimensional corner, to attach tent walls to the tub floor as taught by Kubacki in order to form a complete tent, and to add a tab to the corner as taught by Rinker in order to allow the user to attach a securing means to the corner of the tent.

6. Claims 56 and 59, 60, 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holub in view of Krishnan, Kubacki and Rinker as applied to Claim 55 above, and further in view of Collins III.

c. Regarding Claim 56, as stated above, Holub in view of Krishnan, Kubacki and Rinker teaches all of the limitations of Claim 55, but does not disclose the arrangement of the excess materials in the corner. Collins III discloses a corner with the excess material (41) for the two portions at the seam extend adjacent to one another and on an exterior of the corner before turning inside out and on an interior of the corner after turning the corner inside out (best seen in Collins III, Figure 4). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of Holub in view of Krishnan, Kubacki and Rinker by arranging the excess materials for the two portions on an interior portion of the corner after turning it inside out in order to provide a clean seam along the outside of the corner.

d. Regarding Claim 59, as stated above, Holub in view of Krishnan, Kubacki and Rinker teaches all of the limitations of Claim 55, but does not disclose that the two portions are attached by stitching. Collins III discloses a corner structure formed by attaching portion of adjacent sidewalls together via stitching (see

Collins III, Column2, lines 29-30). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of Holub in view of Krishnan, Kubacki and Rinker by using an attachment method of stitching as taught by Collins III in order to provide a strong attachment means.

e. Regarding Claim 60, Holub in view of Krishnan, Kubacki and Rinker teaches all of the limitations of Claim 55 as stated above, but does not disclose a first or second notch in the fabric material. Collins III discloses a fabric material for making a corner with notches (best seen in Collin III, Figure 3) defining side edges (41). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of Holub in view of Krishnan, Kubacki and Rinker by using a notch as taught by Collins III in order to provide a corner with a little wasted fabric as possible. It would be inherent in a corner such as the one taught by Collins III that when using a two layer fabric, a first layer would have first side edges and a second layer would have second side edges and for the two layers to have be aligned along the edges, especially if the two-layer fabric had been cut as a single piece so that both layers were cut at the same time.

f. Regarding Claim 61, Holub in view of Krishnan, Kubacki and Rinker teaches all of the limitations of claim 55 as stated above, but does not disclose that the corner comprises three sides. Collins III discloses a corner structure with three sides (one of which is formed by the three sides 27, 29, and 35). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of Holub in view of Krishnan, Kubacki and Rinker by using a

three-sided corner as taught by Collins III in order to provide the most usable space as possible. It would be inherent in this method for the second layer of fabric material to extend over the exterior portion of each of the three sides of the inverted three-dimensional corner.

7. Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holub in view of Krishnan, Kubacki, Rinker and Collins III as applied to Claim 56 above, and further in view of Dehner. As stated above, Holub in view of Krishnan, Kubacki, Rinker and Collins III teaches all of the limitations of Claim 56, but does not disclose the use of a second sheet of material. Dehner teaches the use of waterproof sealing tape (66) for covering the interior portion of a seam (see Figure 2) to prevent unwanted water penetration therethrough and increase the strength of the seam. Dehner further teaches the arrangement of the excess materials (64) to one side of the seam. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of Holub in view of Krishnan, Kubacki, Rinker and Collins III by arranging the excess material to one side and by attaching a second piece of material as taught by Dehner on the interior of the corner in order to further prevent water penetration through the corner and to increase the strength of the corner.

8. Claim 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holub in view of Krishnan, Kubacki and Rinker as applied to Claim 55 above, and further in view of Dehner. Dehner teaches the use of waterproof sealing tape (66) for covering the interior portion of a seam (see Figure 2) to prevent unwanted water penetration therethrough and increase the strength of the seam. It would have been obvious to one



of ordinary skill in the art at the time of invention to modify the method of Holub in view of Krishnan, Kubacki and Rinker by attaching a second piece of material as taught by Dehner on the interior of the corner in order to further prevent water penetration through the corner and to increase the strength of the corner.

9. Claims 62-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holub in view of Krishnan, Kubacki, Rinker and Collins III as applied to Claim 61 above, and further in view of Dehner. As stated above, Holub in view of Krishnan, Kubacki, Rinker and Collins III teaches all of the limitations of Claim 61, but does not disclose the use of a second sheet of material. Dehner teaches the use of waterproof sealing tape (66) for covering the interior portion of a seam (see Figure 2) to prevent unwanted water penetration therethrough and increase the strength of the seam. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of Holub in view of Krishnan, Kubacki, Rinker and Collins III by attaching a piece of waterproof sealing tape as taught by Dehner on the interior of the corner in order to further prevent water penetration through the corner and to increase the strength of the corner.

10. Claim 66 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holub in view of Krishnan, Kubacki and Rinker as applied to Claim 55 above and further in view of Rinker. As stated above, Holub in view of Krishnan, Kubacki and Rinker teaches all of the limitations of Claim 55 including a method of constructing a tent corner, but fails to teach the addition of a loop to the tab on the corner. Rinker teaches the attachment of a loop (38) to the tab. It would have been obvious to one of ordinary skill in the art at the

time of invention to modify the method of Holub in view of Krishnan, Kubacki and Rinker by adding a loop to the tab as taught by Rinker in order to allow the user to attach securing means to the corner of the tent.

11. Claims 67 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holub in view of Krishnan, Kubacki and Rinker as applied to Claim 55 above. As stated above, Holub in view of Krishnan, Kubacki and Rinker teaches all of the limitations of Claim 55, but does not explicitly disclose the tent made by the disclosed process. It would have been obvious to one of ordinary skill in the art at the time of invention to make a tent with at least one corner formed in accordance with the method of Claim 55 and to further make a tent wherein each corner is formed in accordance with the method of Claim 55 in order to provide a tent with a significantly waterproof tub floor.

12. Claims 69-72 and 75-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holub in view of Krishnan, Kubacki, Dehner, Collins III and Rinker.

g. Regarding Claim 69, the Holub document teaches the construction of a corner for a floor tub, comprising attaching two portions of a sheet of fabric material so as to form a three-dimensional corner, the attachment of the two portions forming a seam and turning the three dimensional corner inside out to form an inverted three-dimensional corner but does not disclose a two-layer fabric material, a notch in the material, the use of a second sheet of material, the attachment of walls of a tent or canopy or the addition of a tab to the corner. Krishnan teaches using a two-layer fabric material (see Krishnan, Column 16,

line 46 "comprising a pair of fabric layers") to form a waterproof material but does not disclose the use of a notched sheet, the use of a second sheet, the attachment of tent or canopy walls to the floor tub or the addition of a tab to the corner. Collins III discloses a fabric material for making a corner, the fabric material having a notch cut between two portions to define two inner edges (41) along which the two portions are attached, but does not disclose the use of a second sheet, the attachment of tent or canopy walls to the floor tub or the addition of a tab to the corner. Dehner teaches the use of waterproof sealing tape (66) for covering the interior portion of a seam (see Figure 2) to prevent unwanted water penetration therethrough and increase the strength of the seam, but does not teach the attachment of tent or canopy walls to the floor tub or the addition of a tab to the corner. Kubacki teaches the attachment of tent walls (22, 23) to a substantially waterproof tub floor (17) but does not teach the addition of a tab to the corner. Rinker teaches a tab (30) formed on a three-dimensional corner, the tab being formed by pinching the apex of the three-dimensional corner together and connecting the pinched apex to form the tab (see Rinker, Column 3, lines 26-29). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of Holub by using a two-layer fabric material as taught by Krishnan in order to produce a waterproof corner and to configure the fabric material so that a second layer extends over an exterior portion of the inverted, three-dimensional corner, to use a sheet of fabric with two portions having a notch therebetween as taught by Collins III in order to minimize

the waste of fabric used to construct the tub floor, to use a second sheet of material as taught by Dehner to seal the interior of the inverted, three-dimensional corner in order to further prevent water penetration through the corner and to increase the strength of the corner, to attach tent walls to the tub floor as taught by Kubacki in order to form a complete tent and to add a tab to the corner as taught by Rinker in order to allow the user to attach a securing means to the corner of the tent.

h. Regarding Claims 70-72, Holub in view of Krishnan, Kubacki, Dehner, Rinker and Collins III teaches all of the limitations of Claim 69. Dehner further teaches that the second sheet of material comprises a waterproof sealing tape (66) that is heat bonded/welded to the seam (see column 4, lines 11-18).

i. Regarding Claims 75-76, Holub in view of Krishnan, Kubacki, Dehner, Rinker and Collins III teaches all of the limitations of Claim 69 but does not explicitly disclose the tent made by the disclosed process. It would have been obvious to one of ordinary skill in the art at the time of invention to make a tent with at least one corner formed in accordance with the method of Claim 69 and to further make a tent wherein each corner is formed in accordance with the method of Claim 69 in order to provide a tent with a significantly waterproof tub floor.

13. Claim 74 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holub in view of Krishnan, Kubacki, Dehner, Rinker and Collins III as applied to Claim 69 above in view of Rinker. As stated above, Holub in view of Krishnan, Kubacki, Dehner, Rinker and Collins III teaches all of the limitations of Claim 69 but fails to teach the construction

of a loop on tab on the corner. Rinker teaches the attachment of a loop (38) to a corner tab. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of Holub in view of Krishnan, Kubacki, Dehner, Rinker and Collins, III by adding a loop to a corner tab as taught by Rinker in order to allow the user to more easily attach securing means to the corner of the tent.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Choi '123 and Choi '990 disclose corners with tabs formed on the apex.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Noah C. Hawk whose telephone number is 571-272-1480. The examiner can normally be reached on M-F 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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